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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/531,248	04/14/2005	Takemasa Fujino	112857-439	6200
29175	7590	11/16/2009		
K&L Gates LLP P. O. BOX 1135 CHICAGO, IL 60690			EXAMINER MARTIN, ANGELA J	
			ART UNIT 1795	PAPER NUMBER
			NOTIFICATION DATE 11/16/2009	DELIVERY MODE ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

chicago.patents@klgates.com

Office Action Summary

Application No.

10/531,248

Applicant(s)

FUJINO ET AL.

Examiner

ANGELA J. MARTIN

Art Unit

1795

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 July 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 25, 26 and 28-51 is/are pending in the application.
- 4a) Of the above claim(s) 32-48 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 25, 26, 28-31 and 49-51 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/003)
Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

This Office Action is responsive to the Remarks filed on July 1, 2009. Applicant's arguments have been fully considered but they are not persuasive.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 25, 26, 28-31, 49-51 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fukui et al., U.S. Pat. Application Pub. 2004/0043294 A1.

Fukui et al., teach an anode, comprising: a particulate anode active material; a conductive agent (0011) and a particulate binder containing at least one compound selected from the group consisting of copolymers including vinylidene fluoride and polyvinylidene fluoride (0034; 0036), wherein binder is fused by heating (0034). An anode according to claim 25, wherein the anode active material includes at least one substituent selected from the group consisting of one or more simple substances of elements capable of forming an alloy with lithium and compounds thereof (abstract). An anode according to claim 25, which is formed by using an anode mixture slurry that includes: the anode active material; the binder; and a dispersion medium (0034). An anode according to claim 29, which is formed by using an anode mixture slurry, wherein

at least the binder is dispersed in the dispersion medium, and then the anode active material is dispersed (0034). The binder is fused at about the melting point of binder (0034; 0036). The binder is fused to at least about 200 deg C (0037).

Thus, the invention as a whole would have been obvious to one having ordinary skill in the art at the time the invention was made because although the prior art of record does not recite "anode active material and the conductive agent are prevented from being covered with the binder", it appears that this would be the case in the prior art of record since the binder fusion temperature is within the range of claims 50 and 51. Additionally, the particle diameter of the binder and the swelling degree would be determined through routine experimentation to obtain optimization of the anode material.

Response to Arguments

3. Applicant's arguments filed 7/1/09 have been fully considered but they are not persuasive. Applicant argues that "the particulate binder in the claimed invention is dispersed, not dissolved,;" however, "the particulate binder...dispersed" is not in independent claim 25. Applicant argues that Fukui teaches, "a negative electrode in which the binder will coat the anode active material particles, exactly the opposite of the claimed invention." However, Fukui would necessarily teach the anode active material and the conductive agent are prevented from being covered with the binder, because the contact or interface areas of the active material and conductive agent are not covered with binder. Thus, the prior art of record reads on the claim limitations.

Conclusion

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ANGELA J. MARTIN whose telephone number is (571)272-1288. The examiner can normally be reached on Monday-Friday from 10:00 am to 6:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dah-Wei Yuan can be reached on 571-272-1295. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

AJM
Examiner, Art Unit 1795

/Dah-Wei D. Yuan/
Supervisory Patent Examiner, Art Unit 1795